

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.,  
State Engineer,

Plaintiff,

vs.

No. 69cv07941-BB-ACE  
RIO CHAMA STREAM SYSTEM  
Section 7

ROMAN ARAGON, et al.,

Defendants.

**REPLY TO PADILLA AND ANDREW'S RESPONSE TO MOTION  
TO ALLOW CONSIDERATION OF LATE FILED RESPONSES**

Henry G. Coors for his reply to the Padilla and Andrew's response to his Motion to Allow Consideration of Late Filed Claims (docket number 7950) states:

1. The undersigned as counsel for Mr. Coors received notice of a status conference setting for June 14, 2005 and simply mishandled it.
2. The undersigned offers no excuse.
3. Mr. Coors requests that the Court consider all of the facts in deciding the Motion to Set Aside Default Judgment (7901) and would point out that local rule 1.7 allows waiver of the rules if necessary to avoid injustice.
4. It is correct that a Motion for Extension of Time to Respond was not filed, however, Mr. Coor's through counsel did request concurrence in a Motion to allow an untimely response to be considered in which Padilla and Andrews refused to concur.
5. What is now clear from the various responses is that the Motion for Default Judgment and Notice of Status Conference were sent to Mr. Coors at his address care of "Escapees" in Livingston, Texas but were not able to be forwarded to him or,

alternatively, were not received by "Escapees". This was determined from Mr. Coor's review of his records regarding his whereabouts and his best recollection of what he received when he finally did receive his mail on October 18, 2004. The issue of excusable neglect versus simply just non-receipt was not apparent initially to Mr. Coors and he needed additional time to locate the documents establishing his whereabouts during the times in question.

6. Mr. Coors seeks merely to preserve rights which he believed he had transferred to the Rutheron Water Association. His Affidavit on the Motion to Set Aside Default Judgment shows what he considered to have been the status of the State Engineer proceedings and appears to be factually correct.

WHEREFORE, Mr. Coors prays that the Court consider all of the facts and circumstances relevant to the Motion to Set Aside Default Judgment and the Motion for Sanctions by including the late filed responses and for such further relief as is just and proper.

WALTER L. REARDON, JR., P.A.

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WALTER L. REARDON, JR., 2158  
Attorney for Henry G. Coors  
3733 Eubank Blvd., N.E.  
Albuquerque, NM 87111-3536  
Telephone: (505) 293-7000  
Fax: (505) 293-0831  
Email: [walter@reardonlawnm.com](mailto:walter@reardonlawnm.com)

We hereby certify that a copy of the foregoing pleading was sent by the method(s) indicated below to the person(s) and indicated address(es) listed below on the 8<sup>th</sup> day of August, 2005. If by facsimile or email, the transmission was reported as complete and without error.

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Special Master Vickie L. Gabin, sent via first class mail  
USDC-DCNM  
P. O. Box 2384  
Santa Fe, NM 87504-2384

Karla McCall  
Data Manager, sent via first class mail  
1315 Sagebrush Drive, S.W.  
Los Lunas, NM 87031

Bradley S. Bridgewater  
David W. Gehlert, sent via first class mail  
USDOJ-ENRD  
999 18<sup>th</sup> Street, Suite 945  
Denver, CO 80202

John W. Utton, sent via first class mail  
Sheehan, Sheehan & Stelzner, PA  
P. O. Box 271  
Albuquerque, NM 87103-0271

Paula Garcia, sent via first class mail  
NM Acequia Association  
607 Cerrillos Road, Suite F  
Santa Fe, NM 87505

Benjamin Phillips  
John F. McCarthy  
Rebecca Dempsey, sent via first class mail  
White, Koch, Kelly & McCarthy, PA  
P. O. Box 787  
Santa Fe, NM 87504-0787

Lester K. Taylor, sent via first class mail  
Nordhaus, Haltom, Taylor,  
Taradash & Bladh, LLP  
405 Dr. Martin Luther King Avenue, N.E.  
Albuquerque, NM 87102-3541

Susan Jordan, sent via first class mail  
1239 Paseo de Peralta  
Santa Fe, NM 87501

Tessa T. Davidson, sent via first class mail  
The Davidson Law Firm  
P. O. Box 2240  
Corrales, NM 87048

Marcus J. Rael, Jr., sent via first class mail  
500 4<sup>th</sup> Street, N.W., Suite 200  
Albuquerque, NM 87102

Pierre Levy, sent via first class mail  
Law Offices of Daniel J. O'Friel, Ltd.  
P. O. Box 2084  
Santa Fe, NM 87504-2084

John P. Hays, sent via first class mail  
Cassutt, Hays & Friedman, PA  
530-B Harkle Road  
Santa Fe, NM 87505

Daniel Cleavinger, sent via first class mail  
P. O. Box 2470  
Farmington, NM 87499

Ted J. Trujillo, sent via first class mail  
P. O. Box 2185  
Espanola, NM 87532-2185

Karen L. Townsend, sent via first class mail  
120 East Chaco  
Aztec, NM 87410

NM Acequia Commission, sent via first class mail  
Fred Vigil, Chairman  
Dept. of Finance & Administration  
Local Government Division  
Bataan Memorial Building  
Santa Fe, NM 87503

Martin E. Threet, sent via first class mail  
Martin E. Threet and Associates  
6605 Uptown Blvd., N.E., Suite 280  
Albuquerque, NM 87110

Kurt J. Van Deren, sent via first class mail  
P. O. Box 94750  
Albuquerque, NM 87199-4750

Gary S. Friedman, sent via first class mail  
Cassutt, Hays & Friedman, PA  
530-B Harkle Road  
Santa Fe, NM 87505

Peter B. Shoenfeld, sent via first class mail  
P. O. Box 2421  
Santa Fe, NM 87504-2421

Ernest L. Padilla, sent via first class mail  
Padilla Law Firm, PA  
P. O. Box 2523  
Santa Fe, NM 87504-2523

Jeffrey H. Albright  
Cynthia A. Loehr, sent via first class mail  
Jontz, Dawe Gulley & Crown, PC  
201 Third Street, N.W., Suite 1950  
Albuquerque, NM 87103-1027

Ed Newville, sent via first class mail  
Special Assistant Attorney General  
Office of the State Engineer  
P. O. Box 25102  
Santa Fe, NM 87504-5102

Sent By: Karen Madison  
Sender's Fax: (505) 293-0545  
Sender's Email: [walter@reardonlawnm.com](mailto:walter@reardonlawnm.com)